

Federal Communications Commission

DA 97-1885

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 96-230
Table of Allotments,)	RM-8911
FM Broadcast Stations.)	RM-9049
(Levan, and Oakley, Utah)	
and Green River, Wyoming) ¹)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 27, 1997

Released: September 5, 1997

By the Chief, Allocations Branch:

1. At the request of Windy Valley Broadcasting ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 11 FCC Rcd 14586 (1996), proposing the allotment of Channel 268A to Levan, Utah, as the community's first local aural transmission service. Petitioner filed comments restating its intention to file an application for a construction permit to operate a new station at Levan. MRF Enterprises ("MRF") filed a counterproposal² and reply comments.

2. In its counterproposal, MRF requests the allotment of Channel 268C1 to Oakley, Utah. In order to accommodate the new service at Oakley, MRF also requests the substitution of Channel 221C for vacant but applied for Channel 268C at Green River, Wyoming, and the substitution of Channel 256A for Channel 268A at Levan, Utah. MRF submits that Oakley is an incorporated town with a 1990 U.S. Census population of 522 persons with more than twenty-five businesses, municipal organizations and religious congregations located in the community. It further advises that the community is governed by a mayor, town council, planning commission and a board of adjustment. MRF states that Oakley has its own U.S. Post Office and zip code designation. It submits that adoption of its counterproposal will provide first local aural transmission services for each of the communities involved.

3. Based on the record before us, we believe the public interest would be served by the provision of first local services to Levan and Oakley, Utah, as well as the substitution of Channel 221C for Channel 268C at Green River, Wyoming. While petitioner requested the allotment of

¹ The communities of Oakley, Utah, and Green River, Wyoming, have been added to the caption.

² MRF's counterproposal was placed on Public Notice on March 12, 1997, Report No. 2180 (RM-9049).

Channel 268A at Levan, we believe the allotment of Channel 256A would best serve the public interest since its allotment at Levan would eliminate the conflict between petitioner's and MRF's proposals. Channel 256A and Channel 268C1 can be allotted to Levan and Oakley, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 256A can be allotted at Levan at the city reference coordinates.³ For Channel 268C1 at Oakley, we will impose a site restriction of 29.2 kilometers (18.1 miles) east to accommodate MRF's desired site.⁴ Channel 221C can be substituted for Channel 268C at Green River, Wyoming, at the city reference coordinates.⁵ We recognize that the substitution of Channel 221C for Channel 268C at Green River requires that the outstanding applications for Channel 268C at Green River filed by Chapparral Broadcasting Inc. ("CBI") (BPH-960926MG), Big Thicket Broadcasting Company of Wyoming, Inc. ("Big Thicket") (BPH-96027MD), and Wagon Wheel Communications Corporation ("Wagon Wheel") (BPH-960925MD), should be amended to specify the alternate Class C channel. Since Channel 221C can be allotted at each of the sites specified in the applications and given they were filed prior to the initiation of this proceeding, the applicants may amend their applications to specify Channel 221C in lieu of Channel 268C without loss of "cutoff" status. See Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments. We will serve CBI, Big Thicket, and Wagon Wheel a copy of this Report and Order.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 20, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Levan, Utah	256A
Oakley, Utah	268C1
Green River, Wyoming	221C

5. The window period for filing applications for Channel 256A at Levan, Utah, and Channel 268C1 at Oakley, Utah, will open on October 20, 1997, and close on November 20, 1997.

6. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the applicants for Channel 268C at Green

³ The coordinates for Channel 256A at Levan are 39-33-18 NL and 111-51-42 WL.

⁴ The coordinates for Channel 268C1 at Oakley are 40-43-07 NL and 110-57-17 WL.

⁵ The coordinates for Channel 221C at Green River, Wyoming, are 41-31-36 NL and 109-28-06 WL.

River, Wyoming, as follows:

C/O Scott Andersen
Chapparal Broadcasting
645 South Cache
Jackson, Wyoming 83001

Big Thicket Broadcasting Company
of Wyoming, Inc.
P.O. Box 2128
Rock Springs, Wyoming 82901

Wagon Wheel Communications Corporation
P.O. Box 970
Green River, Wyoming

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau